

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KIMBERLEY A. CARPENTER, ARTHUR ACKERT, JR.,
ARTHUR ACKERT, SR., DENNIS LORE, and SUPERIOR
WALLS OF THE HUDSON VALLEY, INC.,

Plaintiffs,

- against -

MARIE PUPKE and EIFFEL INVESTMENT GROUP
AND ASSOCIATES, LLC.,

Defendants.

TO THE CLERK OF THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK:

Defendants Marie Pupke and Eiffel Investment Group And Associates LLC ("Eiffel" and collectively, "defendants"), by its attorneys Lazer, Aptheker, Rosella & Yedid, P.C., submit this Notice of Removal of Civil Action pursuant to 28 U.S.C. §§ 1441 and 1446 (the "Notice") in the above-captioned action, and alleges as follows:

I. FACTS RELEVANT TO THIS PROCEEDING

A. Background

1. On May 16, 2007 defendant Marie Pupke found a copy of the complaint, dated May 9, 2007, outside the door to her residence, located in Delray Beach, Florida. The complaint was filed in the Supreme Court of the State of New York, County of Westchester, on May 11, 2007, on behalf of the plaintiffs, entitled Carpenter v. Pupke, Index No. 08931/07 (the "Complaint"). A true and correct copy of the Complaint is attached hereto as Exhibit "A".

2. This action was originally filed in Supreme Court located in Westchester County,

WP4

07 CIV. No. 5689

**NOTICE OF REMOVAL OF
CIVIL ACTION UNDER 28
U.S.C. § 1441**

Removed from New York
Supreme Court For Westchester
County, Index No. 08931/07

FILED
U.S. DISTRICT COURT
2007 JUN 14 P
S.D. OF N.Y. W.D.

New York, which is in this judicial district, as required by 28 U.S.C. § 1441(a).

3. Since Marie Pupke is an out of state resident who was not personally served, her time to answer or otherwise move with respect to the Complaint is thirty days from ten days following the date plaintiffs file the affidavit of service. See C.L.P.R. § 308. To date, plaintiffs have not filed the affidavit of service with the county clerk. Because Eiffel was served improperly, its time to answer or otherwise move with respect to the Complaint has not accrued. Pursuant to Fed. R. Civ. P. 81(c), which requires defendants to answer or otherwise respond to the Complaint within five (5) business days from the date of the instant Notice, defendants must respond to the Complaint by June 21, 2007.

B. The Parties

4. At the time this action was commenced in the Supreme Court of Westchester County, Defendant Marie Pupke was and still is a resident of the state of Florida residing at 8366 Sawpine Road, Delray Beach, Florida.

5. At the time this action was commenced in the Supreme Court of Westchester County, Defendant Eiffel was and still is a limited liability company organized and existing under the laws of the State of Florida, with its principal place of business at 8366 Sawpine Road, Delray Beach, Florida.

6. Upon information and belief, at all relevant times, plaintiff Kimberley A. Carpenter has resided and still resides at 15 Mereland Rd., New Rochelle, New York. (See Exhibit "A" at ¶2).

7. Upon information and belief, at all relevant times, plaintiff Arthur Ackert, Sr., has resided and still resides at 111 Balsam Drive, Poughkeepsie, New York. (See Exhibit "A" at ¶3).

8. Upon information and belief, at all relevant times, plaintiff Arthur Ackert, Jr., has resided and still resides at 13 Kimlin Court, Poughkeepsie, New York. (See Exhibit "A" at ¶4).

9. Upon information and belief, at all relevant times, plaintiff Dennis Lore has resided and still resides at 136 Moonlight Drive, Stormville, New York. (See Exhibit "A" at ¶5).

10. Upon information and belief, at all relevant times, the principal place of business of plaintiff Superior Walls of the Hudson Valley was and still remains 68 Violet Avenue, Poughkeepsie, New York. (See Exhibit "A" at ¶6).

C. The Complaint

6. Plaintiffs demand judgment in excess of \$20,000,000.00 exclusive of interest and costs. See Exhibit "A" at ¶46.

II. ARGUMENT

REMOVAL OF THIS ACTION IS PROPER BECAUSE THE DISTRICT COURT HAS ORIGINAL JURISDICTION BASED ON THE DIVERSITY OF CITIZENSHIP OF THE PARTIES AND THE AMOUNT IN CONTROVERSY

7. 28 U.S.C. § 1332 provides that "district courts shall have original jurisdiction for all civil actions where the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interests and costs, and is between - (1) citizens of different States".

8. 28 U.S.C. § 1441 provides that "any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant . . . to the district court of the United States for the district and division embracing the place where such action is pending."

9. The Complaint alleges damages exceeding \$75,000.00, exclusive of interest and costs, and is between citizens of different states.

10. As plaintiffs are all New York residents and Ms. Pupke and Eiffel are Florida residents, there is diversity of citizenship between the parties.

11. Plaintiffs allege damages in excess of \$20,000,000.00 exclusive of interest and costs. This exceeds the \$75,000.00 requirement for amount in controversy for purposes of 28 U.S.C. § 1332.

III. CONCLUSION

12. Notice of this filing will be provided to plaintiffs as required by law.

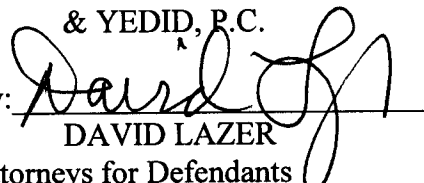
13. A true and accurate copy of this Notice will be filed in the Offices of the Clerk of the Supreme Court of the State of New York, County of Westchester.

14. Accordingly, the statutory requirements having been met, this action is properly removed to this Court.

WHEREFORE, Defendants hereby remove the within action now pending in the Offices of the Clerk of Supreme Court of the State of New York, County of Westchester, to the United States District Court for the Southern District of New York..

Dated: Melville, New York
June 14, 2007

LAZER, APTHEKER, ROSELLA
& YEDID, P.C.

By: 
DAVID LAZER
Attorneys for Defendants
225 Old Country Road
Melville, New York 11747
(631) 761-0800

TO: Vincent E. Bauer
Law Offices of Vincent E. Bauer
Attorneys for Plaintiffs
475 Park Avenue South, 25th Floor
New York, New York 10016